

REMARKS/ARGUMENTS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claim 18 is pending in the present application. No claim amendments are presented, thus no new matter is added.

In the Office Action, Claim 18 is rejected under 35 U.S.C. § 103(a) as unpatentable over Ofuji et al. (U.S. 2003/0142658, herein Ofuji) in view of Ohkubo et al. (U.S. 2002/0181437, herein Ohkubo).

Applicant respectfully traverses the above noted rejection, as independent Claim 18 recites novel features clearly not taught or rendered obvious by the applied references.

Claim 18 recites, in part, a communication method having a variable modulation method comprising:

... a data transmission step of transmitting the data from the mobile station to the base station based on the schedule information; and

a retransmission notifying step of transmitting, from the base station to the mobile station, a signal indicating whether the transmitted data is to be retransmitted,

wherein when the signal indicating an instruction to retransmit the data is transmitted, the data is retransmitted *from the mobile station to the base station with a same modulation method as a modulation method for the data transmission.*

Generally, Claim 18 relates to a communication method that implements variable modulation, in which a modulation type could be momentarily changed during communication. According to Claim 18, since the same type of modulation is applied to both transmitting data and retransmitting the data, the mobile station need not notify the base station of a modulation type prior to retransmitting the data. Such a configuration allows for power consumption to be reduced at the mobile station, and an increase in overall data throughput.

At p. 4, the Office Action concedes that Ofuji fails to “disclose wherein when the signal representing an instruction to retransmit the data is transmitted the data is retransmitted from the mobile station to the base station with a same modulation method as a modulation method for the data transmission.” In an attempt to remedy this deficiency, the Office Action relies on Ohkubo. Ohkubo, however, fails to remedy the deficiencies of Ofuji, as discussed below.

Particularly, paragraph [0189] and Fig. 16 of Ohkubo, which is cited in the Office Action, describes a process of retransmitting packet data from a base station 202 to a mobile station 231, when an error is detected in a packet transmitted from the base station 202 to the mobile station 231. When a notification from the mobile station 231 is a repeat request, the base station 202 retransmits the packet corresponding to the packet identified in the repeat request.

This cited portion of Ohkubo, therefore, not only describes retransmitting data from a base station 202 to a mobile station 231, but it also fails to disclose that the data is retransmitted “***from the mobile station to the base station with a same modulation method as a modulation method for the data transmission***”, as recited in Claim 18.

Similarly, Fig. 29 and paragraph [0298] of Ohkubo, which is also cited in the Office Action, describes that a mobile station 1131 receives and demodulates a signal received through the mobile station antenna 32, and determines whether an error is found in the received packet. When the detection at the mobile station 1131 results in finding an error in the packet, the mobile station identifies the number of the packet for a repeat request and the base station 1102 as the control base station, and then transmits a NACK signal to the base station 1102.

This cited portion of Ohkubo, therefore, not only describes retransmitting data from a base station 1102 to a mobile station 1131, but it also fails to disclose that the data is

retransmitted “*from the mobile station to the base station with a same modulation method as a modulation method for the data transmission*”, as recited in Claim 18.

Accordingly, Applicant respectfully requests that the rejection of Claim 18 under 35 U.S.C. § 103 be withdrawn.

Consequently, in view of the present amendment and in light of the foregoing comments, it is respectfully submitted that the invention defined by Claim 18 is patentably distinguishing over the applied references. The present application is therefore believed to be in condition for allowance and an early and favorable reconsideration of the application is therefore requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, L.L.P.

Eckhard H. Kuesters  
Attorney of Record  
Registration No. 28,870

Andrew T. Harry  
Registration No. 56,959

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413-2220  
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